

REMARKS

The Requirement for Restriction and Election of Species

The Office has set forth the following requirements for restriction:

- (i) GTTCTCCATCTTCAG (SEQ ID NO: 27);
- (ii) TTTATAAGGGTCGATGTCCAT (SEQ ID NO: 28); and
- (iii) AAAGCCACCCAAGGCA (SEQ ID NO: 29).

Furthermore, the Office contends that the instant application contains claims directed to patentably distinct species of the claimed invention. Accordingly, the Office has set forth the requirement to elect a single disclosed species of the claimed invention for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Election with Traverse

With respect to the restriction requirement, Applicants hereby elect group (iii) with traverse. Claims 1, 2, 4, 6, 7, 10, 16, 17-29, 64, 65, and 68-73 are readable on the elected group. With respect to the election of species, Applicants hereby elect the A-L-P conjugate, wherein A is YEE(ahGalNAc)₃, L is SMCC, and P is AAAGCCACCCAAGGCA (SEQ ID NO: 29). Claims 1, 2, 4, 6, 7, 10, 16, 17-29, 64, 65, and 68-73 are readable on the elected species.

Discussion of the Restriction Requirement

The Office contends that restriction between the following nucleotide sequences is proper: (i) GTTCTCCATCTTCAG; (ii) TTTATAAGGGTCGATGTCCAT; and (iii) AAAGCCACCCAAGGCA. The Office claims that the instant sequences are considered unrelated, since each sequence is structurally and functionally independent, and distinct, since each sequence targets a different region of the pathogen and functions against the pathogen to a varying degree. However, the Office admits that each of these sequences is useful in the claimed A-L-P constructs. While the Office contends that searching more than one of the oligonucleotide sequences presents an undue burden on the Office, the Office further admits that the Commissioner has partially waived the requirements of 37 C.F.R. 1.141 and will permit a reasonable number of such nucleotide sequences to be search. The Office states that, under this policy, up to 10 independent and distinct nucleotide sequences will be examined in a single application. In view of the foregoing, searching the three nucleotide

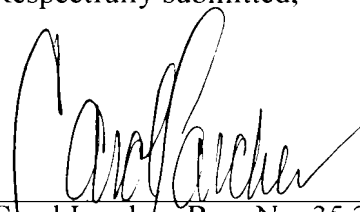
In re Appln. of Ts'O et al.
Application No. 09/888,164

sequences would not create a serious burden on the Office. Therefore, Applicants request the withdrawal of the restriction requirement in whole or in part.

Conclusion

The application is considered to be in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



Carol Larcher, Reg. No. 35,243
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson
Chicago, Illinois 60601-6780
(312) 616-5600 (telephone)
(312) 616-5700 (facsimile)

Date: September 18, 2003

m: Chemis CellWorks_Amd 212241 RRR.doc